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Madera County Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

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Performance Evaluation of the Madera County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides an evaluation of Madera County Agricultural Commissioner's (CAC's) Pesticide Use Enforcement (PUE) program for fiscal year 2007/08. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to the Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Program Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the year, the following core areas of Madera County's pesticide use enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and evaluation of pesticide use and illness investigations for 2007/08.

A) Restricted Materials Permitting:

The restricted materials permitting program meets DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program meets DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program meets DPR standards and work plan goals.

Summary Statement

The Madera County Agricultural Commissioner's pesticide use program is currently effective. Although Madera County hired three new biologists for the 2007/08 year, the county continued to experience a shortage of licensed inspectors throughout the year. Four Agricultural/Standards Inspectors are assigned to the pesticide use enforcement program full-time. Two of the new inspectors received their pesticide use enforcement license in May 2008. Although not primarily assigned to PUE, the division also has available two licensed staff members to assist with inspections and investigations requiring Hmong or Spanish translation. Staff experience in pesticide enforcement extends to 20 years, although the majority of the staff has less than two years experience.

The county worked on installing version 3 of AgGIS during 2007/08. Beginning September 1, 2008, Madera County will no longer be using the Restricted Materials Permit Program (RMPP). The new AgGIS, version 3 software will handle both mapping (digitizing field borders) and permits. In the future, the upgrade will allow growers to submit pesticide use reports on-line to the county.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting

Permit Issuance

All staff of the Madera County Agricultural Commissioner's office who issue restricted materials permits have received restricted materials permit training and are knowledgeable of pesticide laws and regulations. New staff prepares the restricted materials permits and an experienced biologist will review the permit for correct and complete information before issuance to the permittee. Madera County pesticide use enforcement staff that review the restricted use permits possess pesticide regulation and environmental monitoring licenses.

The biologists interview each restricted materials permit applicant to determine if the applicant has met the requirements to hold a restricted materials permit and is the operator of the property. If they are not the operator of the property, a letter of authorization is required to be in possession of the applicant prior to the issuance of the permit. If the applicant possesses a private applicator certificate or a qualified applicator license, Madera County verifies and lists the numbers on the restricted materials permit.

Madera County used the Restricted Materials Permit Program (RMPP) in conjunction with AgGIS to issue permits during 2007/08. Geographic Information System (GIS) maps and grower's maps are used to help evaluate the surrounding environment, identify ground water protection areas and identify sensitive sites, such as schools, residential areas, waterways, labor camps, and parks. Restricted materials permits are amended in person using DPR's supplemental form, or by fax if the authorized representative signs and returns the form to the Madera County CAC. When the permit is amended, the change is made on a supplemental page, attached to the original permit and entered into the RMPP.

Before approving the use of a restricted material on a permit, the Madera CAC checks to see if the pesticide is registered for use on that crop using DPR's pesticide label database and sensitive sites are identified using GIS maps. The Madera CAC staff evaluates the permit and determines if practical mitigation measures could be implemented or the use of feasible alternatives is required. The biologist issuing the restricted materials permit also reviews any permit condition that may apply to the pesticides and conditions the permit accordingly.

The Madera County CAC issues restricted materials permits for a one-year period. In 2007/08, 537 restricted materials permits, 244 permit amendments and 376 operator identification numbers (IDs) were issued. Staff attended DPR annual trainings on the policies and procedures used to issue permits, and properly identifying sensitive sites.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants
- Signed by the operator of the property or authorized persons
- Issued for a one-year time period
- Permit amendments follow approved procedures

Site Evaluation

Notices of intent (NOIs) are received by fax, phone, online and walk-ins. All NOIs are reviewed by pesticide enforcement staff who check each NOI against the permit in the computer. One biologist remains in the office each day to review NOIs and issue permits. When NOIs are submitted containing proposed applications in a sensitive area, a field inspector conducts a pre-application site inspection/evaluation. Sensitive sites include, but are not limited to, parks, residential areas, schools, hospitals, labor camps, sensitive crops, and organic sites. Madera County reviewed and processed 1,166 NOIs during 2007/08.

Notices of intent listing defoliant to be applied near sensitive sites are evaluated and denied if the site is too close to residential areas. The application may be denied, conditioned, or be made using non-restricted pesticides. The biologists have the authority to accept or deny a notice of intent. When a notice of intent is denied, the operator of the property or the pest control business is notified.

The Madera CAC maintains strict permit conditions for the use of fumigants including metam sodium, metam potassium, 1,3-dichloropropene and chloropicrin. Permit conditions vary for the use of metam sodium and metam potassium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods are different for the various application methods and once a certain method is denied, a second method may be allowed in making the application. Permit conditions for 1,3-dichloropropene include buffer zones around sensitive sites, re-entry intervals, and require additional information on the NOI. Chloropicrin permit conditions apply to all applications of chloropicrin alone, or in combination with any fumigant other than methyl bromide when chloropicrin is not being used as a warning agent. An NOI is required to be submitted 72 hours prior to the proposed application and additional information is required on the NOI. Post-application monitoring, buffer zones, application distances from schools and occupied structures are established in the conditions. The county conducts pre-application site inspections for all fumigant applications around sensitive sites to assure the buffer zones are sufficient.

Phenoxy herbicide application sites are evaluated when a notice of intent is submitted, and denied if near sensitive crops. The county has implemented cutoff dates for several of the phenoxy herbicides including 2,4-D, MCPA, and dicamba. This has prevented crop damage and losses due to offsite movement.

The county also maintains permit conditions for aluminum phosphide use. The conditions address accessibility, prior notice to the application, and supervision of the material.

Madera CAC staff reviewed all NOIs in a timely manner, and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections. Madera County inspectors conducted pre-site application inspections on more than 5% of the NOIs submitted to the county. The inspectors focused on NOIs containing proposed applications around sensitive sites.

The NOIs:

- Contained the necessary information
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses
- Identified mitigation measures and included conditions that addressed known hazards

B) Compliance Monitoring

Inspections

Staff from the Madera County Agricultural Commissioner's office attended training sessions in 2007/08 that included investigative report writing, inspection procedures, and restricted materials permit training. Biologists conducting pesticide use inspections mark "No" on the inspection form for any noncompliance found during the inspection. The biologists review the compliance history for the firm/person inspected, and meet with the Deputy Agricultural Commissioner, or commissioner to discuss if further action is required. The Deputy Agricultural Commissioner or commissioner is responsible for preparing the violation notice, or case file and notice of proposed action.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements
- Include interviews of employers and employees
- Adequately document violations
- Include appropriate follow-up inspections and procedures

Investigations

Madera CAC conducted 18 illness investigations during 2007/08. New staff works under the supervision of an experienced inspector during the investigation of pesticide related incidences. Staff conducts investigations, writes reports and completes a case file on each incident or complaint associated to pesticides. Investigations are thorough, complete and submitted in the approved format. The investigations adequately provide the information necessary to successfully prosecute violations. A complaint log is maintained and made available to the liaison for review.

C) Enforcement Response

Madera County pesticide enforcement staff issues violation notices for non-compliances found during inspections and investigations. The inspectors are required to conduct follow-up inspections, which include a headquarter employer/employee inspection when worker safety non-compliances are found. The individual conducting the investigation enters the information into a database. The Deputy Agricultural Commissioner reviews the compliance history of each respondent and utilizes the enforcement response regulations to determine if an enforcement action is warranted. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by pesticide enforcement response regulations. When enforcement actions are not taken, a decision report is written listing the violations, classification, and a compliance history for the respondent along with an explanation.

Madera County issued 41 agricultural civil penalties in 2007/08, 21 of which closed by the end of the fiscal year.

The Madera CAC enforcement program was found to:

- Initiate the appropriate action when violations are identified
- Sufficiently support compliance, enforcement and public protection actions

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when implementing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

The Madera County Agricultural Commissioner's office each year provides continuing education pesticide safety training to licensees and certificate holders, which includes growers, pesticide applicators and farm labor contractors. The courses include information on protection of persons, animals and property during the use of pesticides, worker safety, personal protective equipment required by the label and regulation, restricted materials permit requirements, how to read and understand pesticide label requirements, and updates on pesticide laws and regulations.